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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/757,953	01/15/2004	Carl Frederick Nelson	94992/00001	5052
27614 7590 07/11/2007 MCCARTER & ENGLISH, LLP FOUR GATEWAY CENTER 100 MULBERRY STREET NEWARK, NJ 07102			EXAMINER FRISBY, KESHA	
			ART UNIT 3714	PAPER NUMBER
			MAIL DATE 07/11/2007	DELIVERY MODE PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

## Office Action Summary

Application No.

10/757,953

Applicant(s)

NELSON ET AL.

Examiner

Kesha Frisby

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 16 April 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 60-64 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 60-64 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                                | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                       | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## **DETAILED ACTION**

### ***Status of Claims***

***After the amendment filed on 4/16/2007, claims 1-59 and 65-69 were cancelled.***

***Claims 60-64 are pending in this application.***

### ***Information Disclosure Statement***

1. The information disclosure statement filed 7/2/2004 fails to comply with 37 CFR 1.98(a)(2), which requires a legible copy of each cited foreign patent document; each non-patent literature publication or that portion which caused it to be listed; and all other information or that portion which caused it to be listed. The documents that have not been considered are AM-AP & BA. It has been placed in the application file, but the information referred to therein has not been considered.

### ***Claim Objections***

2. Claims 60 & 62 are objected to because of the following informalities: For claim 60, please insert a semi-colon (;) after "trainee over the network". For claim 62, please insert a colon (:) after "the step of". Appropriate correction is required.

### ***Claim Rejections - 35 USC § 101***

3. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

Claim 62 is rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter. In order for a method to be statutory it must have a practical application of another wise abstract idea. A practical application may be achieved through either: a) physical transformation or b) an otherwise useful, concrete

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and tangible result. To show a physical transformation, the method must physically transform an article or physical object to a different state or thing. This is not achieved in this method because this method in the end only compares time. Further, the method fails to show a tangible result. In order a method to be tangible it must show a real-world or perceivable result. In the instant case, the method results in only comparing timing, which is not, a real-world result because nothing is stated as to what happens after the time is compared.

***Claim Rejections - 35 USC § 103***

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

**5. Claims 62 & 63 are rejected under 35 U.S.C. 103(a) as being unpatentable over Casey-Cholakakis et al. (U.S. Patent Number 6,438,353) in view of Corn et al. (U.S. Patent Number 6,987,945).**

Referring to claims 62 & 63, Casey-Cholakakis et al. discloses comprising the steps of:

(a) identifying general training data for training trainees on a selected topic (training program: for ex, Equal Employment Opportunity); (b) considering the particular characteristics of at least one specific trainee and identifying specific training data that will reduce the risk of non-compliance of that specific trainee (column 3 lines 52-67); (c) storing the general training data and the specific training data in a database (database 70); (d) providing a server computer (applications server 39) connected to the network

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(network 12) and having access to the database (database 70) (Fig. 1 & the associated text); (e) presenting the general training data and the specific training data to the trainee over the network (Fig. 1 & the associated text); (f) monitoring the training activities of trainees by storing information about the trainee's completion of training material in a database (training history 82 & unfilled training 84). *Casey-Cholakis et al. does not disclose (g) timing the length of time comparing such length of time against a previously determined minimum time value and further comprising the step of displaying a message to the trainee that their rate of training reflects a length of time viewing training data that is less than the minimum time value and requiring the trainee to spend additional time viewing the training data before they are able to continue to the next topic (claim 63).* However, Corn et al. teaches (g) timing the length of time which trainees view training data and comparing such length of time against a previously determined minimum time value (column 8 lines 10-18) and further comprising the step of displaying a message to the trainee that their rate of training reflects a length of time viewing training data that is less than the minimum time value and requiring the trainee to spend additional time viewing the training data before they are able to continue to the next topic (column 8 lines 14-18). It would have been obvious to one of ordinary skill in the art at the time the invention was made to include timing the length of time and displaying a message, as disclosed in Corn et al., incorporated into Casey-Cholakis so that the minimum time parameter prevents a user of the electronic device from rapidly clicking their way through screens to satisfy an educational requirement.

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**6. Claims 60 & 61 are rejected under 35 U.S.C. 103(a) as being unpatentable over Casey-Cholakis et al./Corn et al. and further in view of Bakalian (U.S. Publication Number 2005/0181336).**

Referring to claim 60, Casey-Cholakis et al./Corn et al. discloses the method of claim 62 and wherein the message displayed indicated the specific information that has not been satisfactorily completed (column 8 lines 14-18 of Corn et al.) (Claim 61). Casey-Cholakis et al./Corn et al. does not disclose further comprising (h) displaying a message to the trainee if they attempt to exit a section of the training course without viewing all information required for the satisfactory completion of that section. However, Bakalian teaches further comprising (h) displaying a message to the trainee if they attempt to exit a section of the training course without viewing all information required for the satisfactory completion of that section (paragraph 0051). It would have been obvious to one of ordinary skill in the art at the time the invention was made to include displaying a message if the trainee attempts to exit a section of the training course, as disclosed by Bakalian, incorporated into Casey-Cholakis et al./Corn et al. in order to make sure that the user really wants to exit the program.

**7. Claim 64 is rejected under 35 U.S.C. 103(a) as being unpatentable over Casey-Cholakis et. al./Corn et al. and further in view of Olson (U.S. Publication Number 2004/0197759).**

Referring to claim 64, Casey-Cholakis et al./Corn et al. discloses the method of Claim 61. Casey-Cholakis et al./Corn et al. does not disclose further comprising the step of displaying a series of indicators such as a "checkmark" to indicate to the trainee which

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*parts of the course have been completed when the trainee signs on later.* However, Olson teaches further comprising the step of displaying a series of indicators such as a "checkmark" to indicate to the trainee which parts of the course have been completed when the trainee signs on later (paragraphs 0081, 0088 & 0126). It would have been obvious to one of ordinary skill in the art at the time the invention was made to include checkmarks, as disclosed by Olson, incorporated into Casey-Cholakis et al./Corn et al. to show that a user has completed a task.

### ***Response to Arguments***

8. The examiner has presented the error in the Information Disclosure statement again. The applicant failed to comply (did not respond) with the rules of Information Disclosure Statements in the previous Office Action mailed 1/31/2007.
9. Applicant's arguments with respect to claims 60-64 have been considered but are moot in view of the new ground(s) of rejection.

### ***Citation of Pertinent Prior Art***

10. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Greene (U.S. Publication Number 2005/0251416) teaches methods for improving the clinical outcome of patient care and for reducing overall health care costs.

New, II (U.S. Patent Number 6,155,834) teaches data driven interactive testing method, apparatus and article of manufacturing for teaching a student to read.

Clark et al. (U.S. Patent Number 6,171,112) teaches methods and apparatus for authenticating informed consent.

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***Conclusion***

11. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

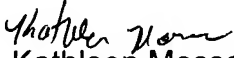
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kesha Frisby whose telephone number is 571-272-8774. The examiner can normally be reached on Mon. - Wed. 7-3pm & Thurs. - Fri. 7-3:30pm.


If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Robert Pezzuto can be reached on 571-272-6696. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.



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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

  
Kathleen Mosser  
Primary Examiner  
Art Unit 3714

  
Kyf 6/26/2007